

### REMARKS

This Application has been carefully reviewed in light of the Office Action mailed September 24, 2008. At the time of the Office Action, Claims 12-13 and 15-24 were pending in this Application. Claims 12-13 and 15-24 were rejected. Claims 12 and 18 have been amended to further define various features of Applicant's invention. Claims 1-11 and 14 were previously cancelled without prejudice or disclaimer. Applicant respectfully requests reconsideration and favorable action in this case.

#### **Rejections under 35 U.S.C. §103**

Claims 12-13 and 15-24 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 6,349,201 issued to Sean Ford ("*Ford*") in view of U.S. Patent No. 6,721,580 issued to Billy G. Moon ("*Moon*"). Applicant respectfully traverses and submits the cited art combinations, even if proper, which Applicant does not concede, does not render the claimed embodiment of the invention obvious.

In order to establish a prima facie case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Even if each limitation is disclosed in a combination of references, however, a claim composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. *KSR Int'l. Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741 (2007). Rather, the Examiner must identify an apparent reason to combine the known elements in the fashion claimed. *Id.* "Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *Id.*, citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). Finally, the reason must be free of the distortion caused by hindsight bias and may not rely on ex post reasoning. *KSR*, 127 S.Ct. at 1742. In addition, evidence that such a combination was uniquely challenging or difficult tends to show that a claim was not obvious. *Leapfrog Enterprises, Inc. v. Fisher-Price, Inc. and Mattel, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007), citing *KSR*, 127 S.Ct. at 1741.

Applicant submits a new set of claims replacing, without prejudice, the current set of claims. The independent claims 12 and 18 have only been clarified and, therefore, no new matter has been added. A marked-up version of the new set of claims is enclosed, from which the Examiner may take the individual amendments made.

The Examiner considers that *Ford* discloses that in case that no cellular communication network is available, enabling a module for broadcasting over a global safety communication network, and selecting the global safety communication network. Office Action, page 3, first paragraph. Applicant respectfully disagrees.

*Ford* discloses a bullet proof vest having a sensor and a GPS connected to a transmitter. The Transmitter is a radio. *Ford*, column 5, lines 21-27, 60-62, and Figures 1 and 4. If the same transmitter can transmit over more than one network is not disclosed. This is naturally so, because *Ford* addresses aspects relating to the bullet proof vest and the health of its wearer, rather than aspects relating to the transmitter. Consequently, the subject matter of the independent claims differs from the transmitter in *Ford* in, at least:

*detecting at least one available communications network at the location of the communication device;*

*if a cellular communication network is available, selecting the cellular network;*

*in case that no cellular communication network is available, enabling a module for broadcasting over a global safety communication network, and selecting the global safety communication network;*

*sending an emergency signal over the selected network; and*

*localizing the identified communication device by using a localization method available over the selected network.*

The Examiner considers *Moon* to render this difference obvious. Applicant respectfully disagrees. *Moon* addresses ensuring emergency availability of communication devices by ensuring that sufficient power remains available in emergency situations. *Moon*, column 1, lines 32-40. With reference to Figure 4, the apparatus 12 determines an available wireless communication method. *Moon*, column 7, lines 38-43, and step 102 in Figure 4. Apparatus 12 then determines the energy required for emergency transmissions for that

communication method. *Moon*, column 7, lines 42-46, and step 104 in Figure 4. This is repeated for other communication methods. *Moon*, step 108 in Figure 4. In this way an energy threshold is determined for the power supply of the apparatus. This threshold is used by the apparatus to determine when to switch over to provide emergency service only rather than full communication service. It appears that the Examiner considers this to disclose the differences mentioned above. The Applicant respectfully disagrees, because the apparatus in *Moon* does not perform the selecting, sending, or localizing recited in the independent claims.

A reader having ordinary skill in the art would not consider the teachings of *Moon*, because these teachings only apply to managing the power reserves of the apparatus. *Moon*, column 1, lines 32-40. However, if one having ordinary skill in the art would nevertheless consider the teaching of *Moon*, then, when staring with the teaching of *Ford* and faced with the desire to transmit location information in cases of emergency (as suggested by the Examiner in the Office Action, page 3, second paragraph), he would merely determine required power supply for sending emergency messages on available networks, as taught by *Moon*, rather than modifying *Ford* with the differences mentioned above.

Since *Ford* and *Moon* fail to teach or suggest:

*detecting at least one available communications network at the location of the communication device;*

*if a cellular communication network is available, selecting the cellular network;*

*in case that no cellular communication network is available, enabling a module for broadcasting over a global safety communication network, and selecting the global safety communication network;*

*sending an emergency signal over the selected network; and*

*localizing the identified communication device by using a localization method available over the selected network,*

it is respectfully requested that the rejection under 35 U.S.C. §103(a) is withdrawn. Applicants respectfully submit that the dependent Claims are allowable at least to the extent of the independent Claim to which they refer, respectively. Thus, Applicants respectfully request reconsideration and allowance of the dependent Claims. Applicants reserve the right

to make further arguments regarding the Examiner's rejections under 35 U.S.C. §103(a), if necessary, and do not concede that the Examiner's proposed combinations are proper.

**CONCLUSION**

Applicant has made an earnest effort to place this case in condition for allowance in light of the remarks set forth above. Applicant respectfully requests reconsideration of the pending claims.

Applicant believes there are no fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicant's attorney at 512.322.2689.

Respectfully submitted,  
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